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KING COUNTY
SUPERIOR COURT CLERK
E-FILED

CASE NUMBER: 17-2-23731-1 SEA

IN THE SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

Commissioner Eric Watness, as Personal
Representative of the Estate of Charleena
Lyles; Karen Clark, as Guardia Ad Litem on
behalf of the four minor children of decedent,

Plaintiffs,

v.

The City of Seattle, a Municipality; Jason M.
Anderson and Steven A. McNew, individually,

Defendants.

NO. 17-2-23731-1 SEA

NOTICE OF APPEAL ON BEHALF
OF PLAINTIFFS' ATTORNEYS

Karen Koehler and Edward Moore, attorneys for the Plaintiffs in the underlying action, seek review by the Washington Court of Appeals of the Superior Court's: Order Granting Defendants' Motions for Civil Rule 11 Sanctions and to Strike Inadmissible Materials Denying Plaintiffs' Improper Motion (Attachment A) and Order on Defendants' Joint Petition for Award of Fees and Expenses (Attachment B).

Copies of the Superior Court's decisions are attached to this notice.

DATED this 14th day of August, 2018.



TODD MAYBROWN, WSBA #18557
Attorney for Plaintiff's Attorneys

CERTIFICATION

I hereby certify that on August 14, 2018, I delivered a copy of the document to which this certification is attached for delivery to all counsel of record and interested parties as follows:

Karen K. Koehler, WSBA #15325 A. Melanie Nguyen, WSBA #51724 Stritmatter Kessler Whelan Koehler Moore 3600 – 15th Avenue West., #300 Seattle, WA 98119 Email: Karenk@stritmatter.com; melanie@stritmatter.com Attorneys for Plaintiff	☐ U.S. Mail ☐ Fax ☐ Legal Messenger ☒ Electronic Delivery (per KCLR 30 via KCSC e-filing system)
Edward H. Moore, WSBA #41584 Law Offices of Edward H. Moore, PC 3600 – 15th Avenue West, #300 Seattle, WA 98119 Email: emoore@ehmpc.com Attorney for Plaintiff	☐ U.S. Mail ☐ Fax ☐ Legal Messenger ☒ Electronic Delivery (per KCLR 30 via KCSC e-filing system)
Robert L. Christie, WSBA #10895 Megan Coluccio, WSBA #44178 Christie Law Group 2100 Westlake Ave. N., #206 Seattle, WA 98109-5802 Email: bob@christielawgroup.com; megan@christielawgroup.com; stefanie@christielawgroup.com Attorneys for Defendants McNew and Anderson	☐ U.S. Mail ☐ Fax ☐ Legal Messenger ☒ Electronic Delivery (per KCLR 30 via KCSC e-filing system)

1 Ghazal Sharifi, WSBA #47750
2 Jeff Wolf, WSBA #20107
3 Seattle City Attorney's Office
4 701 – 5th Avenue, #2050
5 Seattle, WA 98104
6 Email: Ghazal.sharifi@seattle.gov;
7 Jeff.wolf@seattle.gov;
8 Kelly.nakata@seattle.gov;
9 Autumn.derrow@seattle.gov;
10 Belen.johnson@seattle.gov;
11 Jennifer.litfin@seattle.gov

12 Attorneys for Defendant City of Seattle

☐ U.S. Mail

☐ Fax

☐ Legal Messenger

☒ Electronic Delivery (per KCLR 30 via
KCSC e-filing system)

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Sarah Conger, Legal Assistant

ATTACHMENT A

1
2
3
4 IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
5 IN AND FOR KING COUNTY

6 Commissioner Eric Watness, as Personal
7 Representative of the Estate of Charleena
8 Lyles; Karen Clark, as Guardian Ad Litem on
9 behalf of the four minor children of decedent,

10 Plaintiff,

11 v.

12 The City of Seattle, a Municipality; Jason M.
13 Anderson and Steven A. McNew, individually,

14 Defendants.

NO. 17-2-23731-1 SEA

ORDER GRANTING DEFENDANTS'
MOTIONS FOR CIVIL RULE 11
SANCTIONS AND TO STRIKE
INADMISSIBLE MATERIALS DENYING
PLAINTIFFS' IMPROPER MOTION

15 THIS MATTER having come before the undersigned Judge of the above-entitled Court
16 pursuant to Defendants Jason Anderson and Steven McNew, and the City of Seattle's Joint
17 Opposition to Plaintiffs' Improper Motion Regarding Unsupported Allegations of Perjury and Joint
18 Motions for Civil Rule 11 Sanctions and to Strike Inadmissible Materials in the above-entitled cause,
19 and the Court having read and considered the records and files herein, including:

- 20 1. Plaintiffs' Motion for Finding that Officer Jason Anderson has Probably Committed
21 Perjury and for Transmittal to the Prosecuting Attorney Pursuant to RCW 9.72.090;
2. Declaration of Karen Koehler in Support of Plaintiffs' Motion for Finding that Officer
Jason Anderson has Probably Committed Perjury and for Transmittal to the
Prosecuting Attorney Pursuant to RCW 9.72.090, with Exhibits;

ORDER GRANTING DEFENDANTS' MOTIONS FOR
CIVIL RULE 11 SANCTIONS AND TO STRIKE
INADMISSIBLE MATERIALS AND DENYING
PLAINTIFFS' IMPROPER MOTION - 1

JUDGE JULIE SPECTOR
KING COUNTY SUPERIOR COURT
516 THIRD AVENUE
SEATTLE, WA 98104
206-477-1342

ORIGINAL

3. Praecipe Attaching Exhibit 8 to the Declaration of Karen Koehler in Support of Plaintiffs' Motion Filed June 18, 2018, with Exhibit;
4. Defendants' Joint Opposition to Plaintiffs' Improper Motion Regarding Unsupported Allegations of Perjury and Joint Motions for Civil Rule 11 Sanctions and to Strike Inadmissible Materials;
5. Declaration of Megan M. Coluccio, with Exhibits;
6. Declaration of Jonathan Fong;
7. Declaration of Travis Smith;
8. Defendants' Joint Motion Regarding Clarification of Word Count;
9. Plaintiffs' Reply in Support of Plaintiffs' Motion for Finding that Officer Jason Anderson has Probably Committed Perjury and for Transmittal to the Prosecuting Attorney Pursuant to RCW 9.72.090;
10. Declaration of Karen Koehler, with Exhibits;
11. Declaration of Wilson C. "Toby" Hayes, PH.D. [sic];
12. Defendants' Joint Reply in Support of their Motion for Sanctions and Sur-Reply in Support of their Opposition to Plaintiffs' Improper Motion for Perjury;
13. Declaration of Ghazal Sharifi, with Exhibits;
14. Declaration of James Lobsenz;
15. Declaration of Peter Jarvis;
16. Jeremy J. Bauer, PH.D. [sic];
17. Paralegal Elodie Daquila,

and the Court being fully advised in the premises, now, therefore,

The Court finds and concludes as follows:

1. Plaintiffs' counsel, Ms. Koehler and Mr. Moore, intentionally filed a baseless motion, lacking any support from the factual record or existing law, attacking the character and credibility of

1 Defendant Officer Jason Anderson, at the cost of his right to a fair trial, on the anniversary of
2 Ms. Lyles' death as a means of garnering media attention;

3 2. Ms. Koehler and Mr. Moore filed the subject motion at 1:26 p.m. on June 18, 2018;

4 3. At 1:55 p.m. on June 18, 2018, a media outlet published screen captures of the subject motion;

5 4. Ms. Koehler and Mr. Moore intentionally did not serve Defendants with the subject motion
6 until 2:06 p.m. on June 18, 2018;

7 5. Ms. Koehler and Mr. Moore's motion inappropriately asked the Court to invade the province
8 of the fact finder, the jury, and to exceed the bounds of its jurisdiction, requesting a criminal
9 determination on the credibility of a witness and party to this litigation prior to the
10 adjudication;

11 6. Ms. Koehler and Mr. Moore accuse Seattle Police Officer Jason Anderson, a party, of the
12 crime of perjury;

13 7. Ms. Koehler and Mr. Moore filed previously undisclosed discoverable expert materials;

14 8. Ms. Koehler and Mr. Moore represent to this Court that the Seattle Police Department has
15 released a video synchronizing the audio of Officers Anderson's and McNew's In Car Video
16 (ICV) systems to surveillance footage obtained from Solid Ground;

17 9. Ms. Koehler and Mr. Moore filed and disseminated to the public portions of Officer
18 Anderson's video deposition before the time period for confidential designations had passed
19 under this Court's Agreed Protective Order;

20 10. Ms. Koehler and Mr. Moore's motion repeatedly references the Seattle Police Department's
21 Body Worn Video Policy. However, this policy did not go into effect until September 2017,

1 months after the subject incident; Counsels' claims are misleading;

2 11. Ms. Koehler and Mr. Moore's motion also comments on the Force Investigation Team (FIT),
3 Crime Scene Investigation (CSI), and Force Review Board (FRB)'s handling of the subject
4 incident;

5 12. Ms. Koehler and Mr. Moore's motion lacks good faith arguments;

6 13. Ms. Koehler and Mr. Moore's motion was filed, and the media was alerted of the filing before
7 Ms. Koehler and Mr. Moore served Defendants;

8 14. Ms. Koehler tweeted/retweeted multiple news articles with bylines referencing perjury and
9 Officer Anderson;

10 15. Ms. Koehler and Mr. Moore had the opportunity to retain an expert capable of analyzing the
11 video and audio produced in discovery in advance of taking any depositions in this case. For
12 reasons unknown, Ms. Koehler and Mr. Moore did not elect to do so before deposing
13 Defendant Officers Anderson and McNew;

14 16. Ms. Koehler and Mr. Moore had the opportunity to thoroughly cross-examine Officer
15 Anderson over the course of fourteen hours. The court has learned that at no point did Ms.
16 Koehler utilize a synchronized video such as the video offered to this court as Exhibit 10 to
17 her declaration, in cross-examining Officer Anderson;

18 17. In his deposition Officer Anderson consistently stated in his FIT interviews that the door to
19 Ms. Lyles's apartment was closed at the time lethal force was used. Officer Anderson was
20 consistent in his recollection to FIT with respect to the confined space, short distance, and
21 lack of shielding at the time lethal force was used;

1 18. Officer Anderson testified consistently with his FIT interviews at his deposition with respect
2 to the door being closed at the time he fired his weapon. Officer Anderson testified that he
3 completed firing his weapon before opening the door and stepping into the hallway to create
4 space between him and Ms. Lyles;

5 19. The Protective Order entered by this Court provides a party with 30 days from the receipt of
6 a deposition video to designate confidential portions. Officer Anderson's counsel received
7 the video from his April 26, 2018 deposition on May 29, 2018. Under the Protective Order,
8 Officer Anderson's counsel had until June 28, 2018 to make confidential designations to the
9 video. The motion was filed June 18, 2018, ten days prior to the expiration of the 30-day
10 period. This violated Officer Anderson's right to designate portions as confidential;

11 20. The City of Seattle propounded discovery on Plaintiffs on May 11, 2018. Plaintiffs' responded
12 to the City's discovery on June 12, 2018. Plaintiffs' produced no documents with respect to
13 proffered expert Wilson Hayes;

14 21. Proffered expert Wilson Hayes was not identified before the filing of Plaintiffs' motion.
15 Defendants had no opportunity to meet and confer with Plaintiffs regarding this discovery
16 deficiency before the motion was filed;

17 22. Experts must meet the requirements under the Evidence Rules and *Frye*;

18 23. Mr. Hayes is not a video analyst. The synchronization authored by Mr. Hayes and offered to
19 this Court did not utilize original audio or video files. Instead, Mr. Hayes used redacted video
20 and audio files from the publicly released video created by SPD. At this stage in the
21 proceedings, the court does not find Mr. Hayes' methods to be reasonable or reliable;

1 24. The court finds the Seattle Police Department has not created or released a “synchronized”
2 video;

3 25. Mr. Hayes’ synchronization video, Ex. 10 to Ms. Koehler’s declaration, is not reliable or
4 credible expert evidence meeting the requirements of *Frye* or ER 702;

5 26. Defendants notified Ms. Koehler and Mr. Moore of their motion for sanctions under CR 11
6 via written letter;

7 27. Under existing law, there is no civil claim for perjury;

8 28. At this stage in the proceedings, it is not the Court’s role to be the fact finder or to comment
9 on the credibility of a witness or party;

10 29. All counsel, including Ms. Koehler and Mr. Moore, are bound by the Rules of Professional
11 Conduct, Civil Rules, and the decorum of this Court;

12 30. Ms. Koehler and Mr. Moore filed a motion in violation of CR 11. Ms. Koehler and Mr.
13 Moore’s motion has no basis in existing law or the facts of this case;

14 31. The motion lacks good faith arguments and serves no purpose other than to harass Defendants,
15 generate media attention, inflame the public, and materially prejudice these proceedings and
16 defendant’s right to a fair trial;

17 32. Ms. Koehler and Mr. Moore purposely filed this motion on the anniversary of the subject
18 incident and disseminated it to the media;

19 33. Ms. Koehler and Mr. Moore, or someone acting on their behalf, intentionally provided or
20 alerted the media to the subject motion before serving Defendants;

21 34. Ms. Koehler’s subsequent tweets/retweets of various news articles stand as extrajudicial

1 statements of a party's credibility, character, and reputation in violation of RPC 3.6. Such
2 comments are materially prejudicial in light of the ongoing litigation;

3 35. Ms. Koehler and Mr. Moore's failure to produce the materials of Wilson Hayes in response
4 to the City's discovery requests is a discovery violation;

5 36. Ms. Koehler and Mr. Moore's dissemination of Officer Anderson's video deposition to the
6 public before the 30-day time period for confidential designations is a violation of the Court's
7 Protective Order;

8 37. Defendants have been materially prejudiced;

9 38. A combination of monetary and other remedies is warranted;

10 39. The Court has considered lesser sanctions and concludes that lesser sanctions would not cure
11 the severe prejudice to Defendants, *See Jones v. City of Seattle, 179 Wn.2d 322 (2014) and*
12 *Burnet v. Spokane Ambulance 131 Wn.2d 484 (1997)*;

13 40. Defendants' motion is justified, and there are no other circumstances that make a monetary
14 award unjust;

15 41. The reasonable fees and expenses incurred in responding to Ms. Koehler and Mr. Moore's
16 motion are to be determined after submission and review of a fee petition by Defendants'
17 counsel;

18 42. Ms. Koehler and Mr. Moore are directed to review the Court's Civil Rules;

19 43. Ms. Koehler and Mr. Moore are directed to review the Rules of Professional Conduct;

20 44. There will be a hearing to discuss how counsel will conduct themselves with the media as it
21 relates to RPC 3.6;

1 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

2 Plaintiffs' Motion for Finding that Officer Jason Anderson has Probably Committed
3 Perjury and for Transmittal to the Prosecuting Attorney Pursuant to RCW 9.72.090 is **DENIED**;
4

5 Defendants Motion for Civil Rule 11 Sanctions is **GRANTED**, Ms. Koehler and Mr. Moore
6 are ORDERED to pay Defendants reasonable fees and costs to be determined after the submission
7 and review of Defendants' fee petition, which shall be paid to The City of Seattle within 20 days of
8 this Order. Ms. Koehler and Mr. Moore are further ORDERED to comply with the Washington Civil
9 Rules and Rules of Professional Conduct and to maintain the decorum afforded to Defendants and
10 this venue;

11 Defendants Motion to Strike is **GRANTED**, Exhibits 9 and 10 to the Declaration of Karen
12 Koehler (Dkt. 147) and references to the Seattle Police Department's Body Worn Video policy are
13 hereby **STRICKEN**.
14

15
16 DONE IN OPEN COURT/CHAMBERS this 26th day of ^{July}~~June~~, 2018.

17
18 
19 _____
20 HONORABLE JULIE SPECTOR
21

ORDER GRANTING DEFENDANTS' MOTIONS FOR
CIVIL RULE 11 SANCTIONS AND TO STRIKE
INADMISSIBLE MATERIALS AND DENYING
PLAINTIFFS' IMPROPER MOTION - 8

JUDGE JULIE SPECTOR
KING COUNTY SUPERIOR COURT
516 THIRD AVENUE
SEATTLE, WA 98104
206-477-1342

HONORABLE JULIE SPECTOR

Department 3

Hearing Date: June 26, 2018

Oral Argument Requested

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

Commissioner Eric Watness, as Personal
Representative of the Estate of Charleena
Lyles; Karen Clark, as Guardian Ad Litem on
behalf of the four minor children of decedent,

Plaintiff,

v.

The City of Seattle, a Municipality; Jason M.
Anderson and Steven A. McNew, individually,

Defendants.

NO. 17-2-23731-1 SEA

~~PROPOSED~~

ORDER GRANTING DEFENDANTS'
MOTIONS FOR CIVIL RULE 11
SANCTIONS AND TO STRIKE
INADMISSIBLE MATERIALS DENYING
PLAINTIFFS' IMPROPER MOTION

THIS MATTER having come before the undersigned Judge of the above-entitled Court pursuant to Defendants Jason Anderson and Steven McNew, and the City of Seattle's Joint Opposition to Plaintiffs' Improper Motion Regarding Unsupported Allegations of Perjury and Joint Motions for Civil Rule 11 Sanctions and to Strike Inadmissible Materials in the above-entitled cause, and the Court having read and considered the records and files herein, including:

~~PROPOSED~~ ORDER GRANTING DEFENDANTS'
MOTIONS FOR CIVIL RULE 11 SANCTIONS AND
TO STRIKE INADMISSIBLE MATERIALS AND
DENYING PLAINTIFFS' IMPROPER MOTION - 1

CHRISTIE LAW GROUP, PLLC
2100 WESTLAKE AVENUE N., SUITE 206
SEATTLE, WA 98109
206-957-9669

Peter S. Holmes
Seattle City Attorney
701 5th Avenue, Suite 2050
Seattle, WA 98104 7097
(206) 684-8200

COPY

1. Plaintiffs' Motion for Finding that Officer Jason Anderson has Probably Committed Perjury and for Transmittal to the Prosecuting Attorney Pursuant to RCW 9.72.090;
2. Declaration of Karen Koehler in Support of Plaintiffs' Motion for Finding that Officer Jason Anderson has Probably Committed Perjury and for Transmittal to the Prosecuting Attorney Pursuant to RCW 9.72.090, with Exhibits;
3. Defendants' Joint Opposition to Plaintiffs' Improper Motion Regarding Unsupported Allegations of Perjury and Joint Motions for Civil Rule 11 Sanctions and to Strike Inadmissible Materials;
4. Declaration of Megan M. Coluccio, with Exhibits;
5. Declaration of Jonathan Fong;
6. Declaration of Travis Smith;
7. _____;
8. _____;
9. _____;

and the Court being fully advised in the premises, now, therefore,

The Court finds and concludes as follows:

1. Plaintiffs' counsel, Ms. Koehler and Mr. Moore, intentionally filed a baseless motion, lacking any support from the factual record or existing law, attacking the character and credibility of Defendant Officer Jason Anderson, at the cost of his right to a fair trial, on the anniversary of Ms. Lyles' death as a means of garnering media attention;
2. Ms. Koehler and Mr. Moore filed the subject motion at 1:26 p.m. on June 18, 2018;
3. At 1:55 p.m. on June 18, 2018, a media outlet published screen captures of the subject motion;

~~PROPOSED~~ ORDER GRANTING DEFENDANTS'
MOTIONS FOR CIVIL RULE 11 SANCTIONS AND
TO STRIKE INADMISSIBLE MATERIALS AND
DENYING PLAINTIFFS' IMPROPER MOTION - 2

CHRISTIE LAW GROUP, PLLC
2100 WESTLAKE AVENUE N., SUITE 206
SEATTLE, WA 98109
206-957-9669

Peter S. Holmes
Seattle City Attorney
701 5th Avenue, Suite 2050
Seattle, WA 98104-7097
(206) 684-8200

1 4. Ms. Koehler and Mr. Moore intentionally did not serve Defendants with the subject motion
2 until 2:06 p.m. on June 18, 2018.

3 5. Ms. Koehler and Mr. Moore's motion inappropriately asked the Court to invade the province
4 of the fact finder, the jury, and to exceed the bounds of its jurisdiction, requesting a criminal
5 determination on the credibility of a witness and party to this litigation;

6 6. Ms. Koehler and Mr. Moore accuse Seattle Police Officer Jason Anderson, a party, of the
7 crime of perjury;

8 7. Ms. Koehler and Mr. Moore filed previously undisclosed discoverable expert materials;

9 8. Ms. Koehler and Mr. Moore represent to this Court that the Seattle Police Department has
10 created a video synchronizing the audio of Officers Anderson's and McNew's In Car Video
11 (ICV) systems to surveillance footage obtained from Solid Ground;

12 9. Ms. Koehler and Mr. Moore filed and disseminated to the public portions of Officer
13 Anderson's video deposition before the time period for confidential designations had passed
14 under this Court's Protective Order;

15 10. Ms. Koehler and Mr. Moore's motion repeatedly references the Seattle Police Department's
16 Body Worn Video Policy, which did not go into effect until September 2017, months after the
17 subject incident;

18 11. Ms. Koehler and Mr. Moore's motion also comments on the Force Investigation Team (FIT),
19 Crime Scene Investigation (CSI), and Force Review Board (FRB)'s handling of the subject
20 incident;

21 ~~PROPOSED~~ ORDER GRANTING DEFENDANTS'
MOTIONS FOR CIVIL RULE 11 SANCTIONS AND
TO STRIKE INADMISSIBLE MATERIALS AND
DENYING PLAINTIFFS' IMPROPER MOTION - 3

CHRISTIE LAW GROUP, PLLC
2100 WESTLAKE AVENUE N., SUITE 206
SEATTLE, WA 98109
206-957-9669

Peter S. Holmes
Seattle City Attorney
701 5th Avenue, Suite 2050
Seattle, WA 98104-7097
(206) 684-8200

1 12. Ms. Koehler and Mr. Moore's motion lacks good faith arguments;

2 13. Ms. Koehler and Mr. Moore's motion was filed, and the media was alerted of the filing before
3 Ms. Koehler and Mr. Moore served Defendants;

4 14. Ms. Koehler tweeted/retweeted multiple news articles with bylines referencing perjury and
5 Officer Anderson;

6 15. Ms. Koehler and Mr. Moore had the opportunity to retain an expert capable of analyzing the
7 video and audio produced in discovery in advance of taking any depositions in this case. For
8 reasons unknown, Ms. Koehler and Mr. Moore did not elect to do so before deposing
9 Defendant Officers Anderson and McNew;

10 16. Ms. Koehler and Mr. Moore had the opportunity to thoroughly cross-examine Officer
11 Anderson over the course of fourteen hours. At no point did Ms. Koehler utilize a
12 synchronized video such as the video offered to this Court as Exhibit 10 to her declaration, in
13 cross examining Officer Anderson;

14 17. Officer Anderson consistently stated in his FIT interviews that the door to Ms. Lyles's
15 apartment was closed at the time lethal force was used. Officer Anderson was consistent in
16 his recollection to FIT with respect to the confined space, short distance, and lack of shielding
17 at the time lethal force was used;

18 18. Officer Anderson testified consistent with his FIT interviews at deposition with respect to the
19 door being closed at the time he fired his weapon. Officer Anderson testified that he
20 completed firing his weapon before opening the door and stepping into the hallway to create

21 ~~PROPOSED~~ ORDER GRANTING DEFENDANTS'
MOTIONS FOR CIVIL RULE 11 SANCTIONS AND
TO STRIKE INADMISSIBLE MATERIALS AND
DENYING PLAINTIFFS' IMPROPER MOTION - 4

CHRISTIE LAW GROUP, PLLC
2100 WESTLAKE AVENUE N., SUITE 206
SEATTLE, WA 98109
206-957-9669

Peter S. Holmes
Seattle City Attorney
701 5th Avenue, Suite 2050
Seattle, WA 98104-7097
(206) 684-8200

1 space between him and Ms. Lyles;

2 19. The Protective Order entered by this Court provides a party with 30 days from the receipt of
3 a deposition video to designate confidential portions. Officer Anderson's counsel received
4 the video from his April 26, 2018 deposition on May 29, 2018. Under the Protective Order,
5 Officer Anderson's counsel has until June 28, 2018 to make confidential designations to the
6 video;

7 20. The City of Seattle propounded discovery on Plaintiffs on May 11, 2018. Plaintiffs'
8 responded to the City's discovery on June 12, 2018. Plaintiffs' produced no documents with
9 respect to proffered expert Wilson Hayes;

10 21. Proffered expert Wilson Hayes was not identified before the filing of Plaintiffs' motion.
11 Defendants had no opportunity to meet and confer with Plaintiffs regarding this discovery
12 deficiency before the motion was filed;

13 22. Experts must meet the requirements under the Evidence Rules and *Frye*;

14 23. Mr. Hayes is not a video analyst. The synchronization authored by Mr. Hayes and offered to
15 this Court did not utilize original audio or video files. Instead, Mr. Hayes used redacted video
16 and audio files from the publicly released video created by SPD. Mr. Hayes' methods are
17 not reasonable or reliable;

18 24. The Seattle Police Department has not created or released a "synchronized" video;

19 25. Mr. Hayes' synchronization, Ex. 10 to Ms. Koehler's declaration, is not reliable or credible
20 expert evidence meeting the requirements of *Frye* or ER 702;

21 ~~PROPOSED~~ ORDER GRANTING DEFENDANTS'
MOTIONS FOR CIVIL RULE 11 SANCTIONS AND
TO STRIKE INADMISSIBLE MATERIALS AND
DENYING PLAINTIFFS' IMPROPER MOTION - 5

CHRISTIE LAW GROUP, PLLC
2100 WESTLAKE AVENUE N., SUITE 206
SEATTLE, WA 98109
206-957-9669

Peter S. Holmes
Seattle City Attorney
701 5th Avenue, Suite 2050
Seattle, WA 98104-7097
(206) 684-8200

1 26. Defendants notified Ms. Koehler and Mr. Moore of their motion for sanctions under CR 11
2 via written letter;

3 27. Under existing law, there is no civil claim for perjury;

4 28. It is not the Court's role to be the fact finder or to comment on the credibility of a witness or
5 party;

6 29. All counsel, including Ms. Koehler and Mr. Moore, are bound by the Rules of Professional
7 Conduct, Civil Rules, and the decorum of this Court;

8 30. Ms. Koehler and Mr. Moore have filed a motion in violation of CR 11. Ms. Koehler and Mr.
9 Moore's motion has no basis in existing law or the facts of this case;

10 31. The motion lacks good faith arguments and serves no other purpose than to harass Defendants,
11 generate media attention, inflame the public, and materially prejudice these proceedings;

12 32. Ms. Koehler and Mr. Moore purposely filed this motion on the anniversary of the subject
13 incident and disseminated it to the media;

14 33. Ms. Koehler and Mr. Moore, or someone on their behalf, intentionally provided or alerted the
15 media to the subject motion before serving Defendants;

16 34. Ms. Koehler's subsequent tweets/retweets of various news articles stand as extrajudicial
17 statements of a party's credibility, character, and reputation under RPC 3.6. Such comments
18 are materially prejudicial in light of the ongoing litigation;

19 35. Ms. Koehler and Mr. Moore's failure to produce the materials of Wilson Hayes in response
20 to the City's discovery requests is a discovery violation;

21 ~~PROPOSED~~ ORDER GRANTING DEFENDANTS'
MOTIONS FOR CIVIL RULE 11 SANCTIONS AND
TO STRIKE INADMISSIBLE MATERIALS AND
DENYING PLAINTIFFS' IMPROPER MOTION - 6

CHRISTIE LAW GROUP, PLLC
2100 WESTLAKE AVENUE N., SUITE 206
SEATTLE, WA 98109
206-957-9669

Peter S. Holmes
Seattle City Attorney
701 5th Avenue, Suite 2050
Seattle, WA 98104-7097
(206) 684-8200

1 36. Ms. Koehler and Mr. Moore's dissemination of Officer Anderson's video deposition to the
2 public before the 30-day time period for confidential designations is a violation of the Court's
3 Protective Order;

4 37. Defendants have been materially prejudiced;

5 38. A combination of monetary and other remedies is warranted;

6 39. The Court has considered lesser sanctions and concludes that lesser sanctions would not cure
7 the severe prejudice to Defendants;

8 40. Defendants' motion is justified, and there are no other circumstances that make a monetary
9 award unjust;

10 41. The reasonable fees and expenses incurred in responding to Ms. Koehler and Mr. Moore's
11 motion are to be determined after submission of and review a fee petition by Defendants'
12 counsel;

13 42. Ms. Koehler and Mr. Moore are directed to ^{Re-}review the Court's Civil Rules;

14 43. Ms. Koehler and Mr. Moore are directed to ^{Re-}review the Rules of Professional Conduct;

15 44. Ms. Koehler and Mr. Moore are directed to comport with their duties and obligations as
16 officers of the Court.

17 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:
18

19 Plaintiffs' Motion for Finding that Officer Jason Anderson has Probably Committed
20 Perjury and for Transmittal to the Prosecuting Attorney Pursuant to RCW 9.72.090 is **DENIED**;

21 ~~PROPOSED~~ ORDER GRANTING DEFENDANTS'
MOTIONS FOR CIVIL RULE 11 SANCTIONS AND
TO STRIKE INADMISSIBLE MATERIALS AND
DENYING PLAINTIFFS' IMPROPER MOTION - 7

CHRISTIE LAW GROUP, PLLC
2100 WESTLAKE AVENUE N., SUITE 206
SEATTLE, WA 98109
206-957-9669

Peter S. Holmes
Seattle City Attorney
701 5th Avenue, Suite 2050
Seattle, WA 98104-7097
(206) 684-8200

1 Defendants Motion for Civil Rule 11 Sanctions is **GRANTED**, Ms. Koehler and Mr. Moore
2 are ORDERED to pay Defendants reasonable fees and costs in to be determined after the submission
3 and review of Defendants' fee petition, which shall be paid to The City of Seattle within 20 days of
4 this Order. Ms. Koehler and Mr. Moore are further ORDERED to comply with the Washington Civil
5 Rules and Rules of Professional Conduct and to maintain the decorum afforded to Defendants and
6 this venue;

7 Defendants Motion to Strike is **GRANTED**, Exhibits 9 and 10 to the Declaration of Karen
8 Koehler (Dkt. 147) and references to the Seattle Police Department's Body Worn Video policy are
9 hereby **STRICKEN**.

10
11 DONE IN OPEN COURT/CHAMBERS this 26th day of June, 2018.

12
13 
HONORABLE JULIE SPECTOR

14 Presented by:

15 CHRISTIE LAW GROUP, PLLC

16 By /s/ Megan M. Coluccio

MEFAN M. COLUCCIO, WSBA #44178

17 Attorney for Defendants Jason M. Anderson and Steven A. McNew

18 SEATTLE CITY ATTORNEY'S OFFICE

19 By /s/ Ghazal Sharifi

Ghazal Sharifi, WSBA #47750

20 Attorneys for Defendant City of Seattle

21 ~~PROPOSED~~ ORDER GRANTING DEFENDANTS'
MOTIONS FOR CIVIL RULE 11 SANCTIONS AND
TO STRIKE INADMISSIBLE MATERIALS AND
DENYING PLAINTIFFS' IMPROPER MOTION - 8

CHRISTIE LAW GROUP, PLLC
2100 WESTLAKE AVENUE N., SUITE 206
SEATTLE, WA 98109
206-957-9669

Peter S. Holmes
Seattle City Attorney
701 5th Avenue, Suite 2050
Seattle, WA 98104-7097
(206) 684-8200

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~~PROPOSED~~ ORDER GRANTING DEFENDANTS'
MOTIONS FOR CIVIL RULE 11 SANCTIONS AND
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ATTACHMENT B

HONORABLE JULIE SPECTOR
Department 3
Noted for Consideration: July 26, 2018
(w/o oral argument)

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

Commissioner Eric Watness, as Personal
Representative of the Estate of Charleena
Lyles; Karen Clark, as Guardian Ad Litem on
behalf of the four minor children of decedent,

Plaintiff,

v.

The City of Seattle, a Municipality; Jason M.
Anderson and Steven A. McNew, individually,

Defendants.

NO. 17-2-23731-1 SEA

~~PROPOSED~~

ORDER ON DEFENDANTS' JOINT
PETITION FOR AWARD OF FEES AND
EXPENSES

THIS MATTER having come before the undersigned Judge of the above-entitled Court
pursuant to Defendants' Joint Petition for Award of Fees and Expenses in the above-entitled cause,
and the Court having read and considered the records and files herein, including:

1. Defendants' Joint Petition for Award of Fees and Expenses;
2. Declaration of Robert L. Christie in Support of Defendants' Joint Petition for Award

~~PROPOSED~~ ORDER ON DEFENDANTS' JOINT
PETITION FOR AWARD OF FEES AND
EXPENSES - 1

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ORIGINAL

of Fees and Expenses;

3. Declaration of Ghazal Sharifi in Support of Defendants' Joint Petition for Award of Fees and Expenses;

4. Plaintiffs' Response to Defendants' Joint
Petition for Award of Fees and Expenses; and
6. _____;

and the Court being fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

Ms. Koehler and Mr. Moore are ORDERED to pay Defendants reasonable fees and expenses in the amount of \$24,469.68, which shall be paid to The City of Seattle within 20 days of the entry of this Order.

DONE IN OPEN COURT/CHAMBERS this 26th day of July, 2018.


HONORABLE JULIE SPECTOR

Presented by:

CHRISTIE LAW GROUP, PLLC

By /s/ Megan M. Coluccio

ROBERT L. CHRISTIE, WSBA #10895

MEGAN M. COLUCCIO, WSBA #44178

Attorneys for Defendants Jason M. Anderson and Steven A. McNew

///

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~~PROPOSED~~ ORDER ON DEFENDANTS' JOINT
PETITION FOR AWARD OF FEES AND
EXPENSES - 2

CHRISTIE LAW GROUP, PLLC
2100 WESTLAKE AVENUE N., SUITE 206
SEATTLE, WA 98109
206-957-9669

Peter S. Holmes
Seattle City Attorney
701 5th Avenue, Suite 2050
Seattle, WA 98104-7097
(206) 684-8200

1 SEATTLE CITY ATTORNEY'S OFFICE

2
3 By /s/ Ghazal Sharifi
4 Ghazal Sharifi, WSBA #47750
5 Jeff Wolf, WSBA #20107
6 Attorneys for Defendant City of Seattle
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21 ~~PROPOSED~~ ORDER ON DEFENDANTS' JOINT
PETITION FOR AWARD OF FEES AND
EXPENSES - 3

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2100 WESTLAKE AVENUE N., SUITE 206
SEATTLE, WA 98109
206-957-9669

Peter S. Holmes
Seattle City Attorney
701 5th Avenue, Suite 2050
Seattle, WA 98104-7097
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 16th day of July, 2018, I caused a true and correct copy of the
3 foregoing document to be served upon the following in the manner indicated below:

4 Karen K. Koehler, WSBA #15325
5 A. Melanie Nguyen, WSBA #51724
6 STRITMATTER KESSLER WHELAN
7 KOEHLER MOORE
8 3600 15th Avenue W., #300
9 Seattle, WA 98119

10 Email: Karenk@stritmatter.com, melanie@stritmatter.com
11 Attorneys for Plaintiff
12 *Via King County E-Service and Email*

13 Edward H. Moore, WSBA #41584
14 LAW OFFICES OF EDWARD H. MOORE, PC
15 3600 15th Avenue West, Suite 300
16 Seattle, WA 98119

17 Email: emoore@ehmpc.com
18 Attorney for Plaintiff
19 *Via King County E-Service and Email*

20 Ghazal Sharifi, WSBA #47750
21 Jeff Wolf, WSBA #20107
SEATTLE CITY ATTORNEY'S OFFICE
701 5th Avenue, Suite 2050
Seattle, WA 98104

Email: Ghazal.Sharifi@seattle.gov; Jeff.Wolf@seattle.gov
Attorneys for Defendant City of Seattle
Via King County E-Service and Email

STEFANIE PALMER

21 ~~PROPOSED~~ ORDER ON DEFENDANTS' JOINT
PETITION FOR AWARD OF FEES AND
EXPENSES - 4

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Peter S. Holmes
Seattle City Attorney
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Seattle, WA 98104-7097
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